

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zev Carter	Team: Squad #3	CCRB Case #: 201902365	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 03/18/2019 12:50 AM	Location of Incident: In the lobby of § 87(2)(b)	Precinct: 112	18 Mo. SOL 9/18/2020	EO SOL 5/5/2021	
Date/Time CV Reported Mon, 03/18/2019 4:13 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 03/18/2019 4:13 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Robert Hyland	03268	951836	112 PCT
2. POM Robert Pepe	25068	946530	112 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Robert Ryan	29928	952202	112 PCT
2. POM Nicholas Imperato	15779	949127	112 PCT
3. POM Joseph Mugno	10153	954157	112 PCT
4. POM Yogeshwar Samaroo	18073	965499	112 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Robert Hyland	Abuse: Sergeant Robert Hyland forcibly removed § 87(2)(b) to the hospital.	
B.SGT Robert Hyland	Force: Sergeant Robert Hyland used physical force against § 87(2)(b)	
C.SGT Robert Hyland	Abuse: Sergeant Robert Hyland refused to provide his name to § 87(2)(b)	
D.SGT Robert Hyland	Abuse: Sergeant Robert Hyland refused to provide his shield number to § 87(2)(b)	
E.POM Robert Pepe	Abuse: Police Officer Robert Pepe refused to provide his shield number to § 87(2)(b)	

Case Summary

On March 18, 2019, § 87(2)(b) filed this complaint as a walk-in. IAB log #2019-10646 also concerns this incident.

On March 18, 2019, at approximately 12:50 a.m., § 87(2)(b) was inside of his § 87(2)(b) at § 87(2)(b) in Queens. Sergeant Robert Hyland of the 112th Precinct responded to the location and forcibly removed § 87(2)(b) to the hospital (**Allegation A: Abuse of Authority**, § 87(2)(g)). Sgt. Hyland allegedly kned § 87(2)(b) in the back (**Allegation B: Force**, § 87(2)(g)). Sgt. Hyland refused to provide his name and shield number to § 87(2)(b) (**Allegations C and D: Abuse of Authority**, § 87(2)(g)). Police Officer Robert Pepe, who responded to the location with Sgt. Hyland and is assigned to the same command, refused to provide his shield number to § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g)).

This case contains body-worn camera (BWC) footage from Sgt. Hyland, PO Pepe, Police Officer Yogeshwar Samaroo, Police Officer Nicholas Imperato, and Police Officer Joseph Mugno (**01, 02, 03, 04, 05, 06 Board Review**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Robert Hyland forcibly removed § 87(2)(b) to the hospital.

It is undisputed that § 87(2)(b) frequently calls 311 and 911 in order to file noise complaints against his upstairs neighbor, and that these calls are generally closed as unfounded or unnecessary by the police department.

§ 87(2)(b) stated that on March 18, 2019, he walked to the lobby of his apartment building at § 87(2)(b) in Queens and called 311 in order to file a noise complaint against his upstairs neighbor (**07 Board Review**). § 87(2)(b) went to the lobby because when he calls the police, they usually say that they cannot access the building. He was wearing a bathrobe and pajamas. Nobody responded to § 87(2)(b)'s noise complaint after 20 minutes, and he called 911. He was connected to the Internal Affairs Bureau. § 87(2)(b) told the operator that the police never respond to his noise complaints. An officer from IAB told the 911 operator to send a supervisor to § 87(2)(b)'s location.

§ 87(2)(b) stated that he let Sgt. Hyland and PO Pepe into the lobby of his building. Sgt. Hyland asked § 87(2)(b) “Do you want to hurt yourself?” and “Do you want to hurt others?” § 87(2)(b) responded “no” to each question. § 87(2)(b) explained the complaint against his neighbor to Sgt. Hyland, who dismissed his complaint. § 87(2)(b) attempted to show Sgt. Hyland a folder of 311 calls, and Sgt. Hyland disregarded them. After approximately ten minutes of conversation, Sgt. Hyland asked § 87(2)(b) “So you called 911 even though it’s not crime, and you want me to come here? I’m taking you to the hospital.” § 87(2)(b) told Sgt. Hyland that he did not need to go to the hospital. § 87(2)(b) denied this, but Sgt. Hyland insisted and started to place § 87(2)(b) in handcuffs.

Sgt. Hyland stated that he learned in a platoon commanders' meeting that § 87(2)(b) has been one of the most frequent 311 callers in the 112th Precinct for an unknown period (**08 Board Review**). However, Sgt. Hyland had not interacted with § 87(2)(b) before this incident. He knew that § 87(2)(b) made many noise complaints, but did not make any judgements as to the validity of the complaint on the date of the incident. Sgt. Hyland knew nothing else about § 87(2)(b) than his noise complaints before responding.

PO Pepe stated that he had responded to three or four noise complaints at § 87(2)(b)'s apartment prior to this incident (**09 Board Review**). These incidents generally ended with the officers explaining to § 87(2)(b) that there was no noise and encouraging him to rest and relax.

Neither Sgt. Hyland nor PO Pepe knew whether § 87(2)(b) had any history of mental illness prior to responding. Both officers stated that they were let into the lobby of § 87(2)(b) by § 87(2)(b) who was wearing a bathrobe and walking with a cane.

Sgt. Hyland stated that upon seeing § 87(2)(b) wearing a bathrobe inside of the cold apartment building, he thought that § 87(2)(b) was unable to care for himself, but still wanted to interview § 87(2)(b) about his complaint. Sgt. Hyland also suspected that § 87(2)(b) had been "wandering around" his apartment building all day solely because § 87(2)(b) had met them in the building's lobby.

Sgt. Hyland interviewed § 87(2)(b) who seemed paranoid and reported that his landlord put people inside of his apartment building to harass him. To Sgt. Hyland, this was irrational. Sgt. Hyland stated that a paranoid individual is "capable of doing anything" and by extension be a threat to others. Sgt. Hyland determined § 87(2)(b) to be emotionally disturbed and a threat to himself as soon as he started talking to § 87(2)(b). This determination was based upon § 87(2)(b)'s attire, where he had met the officers, and his perceived paranoia.

PO Pepe stated that he did not believe that § 87(2)(b) was acting in a way that would cause serious harm to himself or others. PO Pepe made no judgements about § 87(2)(b)'s mental health based upon what § 87(2)(b) was wearing, or where in the apartment building he had met the officers. PO Pepe thought that § 87(2)(b) was unable to care for himself because he did not listen to or comprehend Sgt. Hyland, who told § 87(2)(b) that nothing could be done about his complaint.

Both Sgt. Hyland and PO Pepe stated that they did not investigate § 87(2)(b)'s complaint. Sgt. Hyland was unsure whether § 87(2)(b) had a noise complaint or a different complaint on the date of the incident. He did not investigate § 87(2)(b)'s complaint because § 87(2)(b) "wasn't in his right mind." PO Pepe stated that no investigation was done because § 87(2)(b)'s complaint on the date of the incident was the same one that he always made.

Both Sgt. Hyland and PO Pepe stated that Sgt. Hyland decided to remove § 87(2)(b) to the hospital unilaterally.

Sgt. Hyland's BWC footage captures this portion of the incident (**01 Board Review**). From 2:05 to 2:25, § 87(2)(b)'s first words to Sgt. Hyland are, "I called at 12:20." Sgt. Hyland responds,

“Like I said, I don’t care.” § 87(2)(b) reports to Sgt. Hyland that his upstairs neighbor is making noise and dropping things. Sgt. Hyland explains that noise complaints are not police issues. At 4:25, Sgt. Hyland asks § 87(2)(b) whether he wishes to hurt himself or others. § 87(2)(b) responds, “no,” to both questions and denies that he needs medical care. At 5:10, less than three minutes after meeting § 87(2)(b) Sgt. Hyland tells § 87(2)(b) that he is “hearing things” and has an “underlying issue.” § 87(2)(b) denies this and explains that his landlord put an NYPD employee in the apartment above him, and that this tenant harasses him. Sgt. Hyland tells § 87(2)(b) that he needs to go to the hospital at 6:25.

§ 87(2)(b) provided several 311 call receipts that were closed either as unfounded or unnecessary (10 Board Review). Additional closed call receipts were provided to the CCRB during the investigation of case no. 201810749 (11 Board Review).

The FDNY prehospital care report prepared for § 87(2)(b) states that police officers determined § 87(2)(b) to be emotionally disturbed, and told the EMTs that § 87(2)(b) complained that his apartment was bugged (12 Board Review). It further states that § 87(2)(b) refused to let EMTs evaluate him.

§ 87(2)(b)'s medical records from § 87(2)(b) Hospital indicate that his emergency department diagnosis was unspecified back and wrist pain and delusions (13 Board Review). He was reported by EMTs to be paranoid. § 87(2)(b) was evaluated by a psychiatrist after being transferred out of the emergency department. The psychiatrist found that § 87(2)(b) was angry and appeared to be in control of his own behavior without presenting psychotic symptoms. Additionally, the psychiatrist noted that it was unclear whether § 87(2)(b) was having auditory hallucinations regarding his noise complaints, or whether they were legitimate. § 87(2)(b) denied auditory hallucinations, and was determined not to be a danger to himself or others.

NYPD Patrol Guide Procedure 221-13 defines emotionally disturbed persons as those who appear “to be mentally ill or temporarily deranged” and are conducting themselves “in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others” (14 Board Review). Officers are to remove emotionally disturbed persons to the hospital for treatment.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

Allegation (B) Force: Sergeant Robert Hyland used physical force against § 87(2)(b)

§ 87(2)(b) stated that after he was handcuffed, Sgt. Hyland knelt him in his lower back and pulled him backwards onto the floor (**07 Board Review**).

Both Sgt. Hyland and PO Pepe stated that after being handcuffed, § 87(2)(b) would not remain in one place (**08, 09 Board Review**). Both officers stated that they guided § 87(2)(b) to the ground in response.

PO Pepe's BWC footage captures the moments before § 87(2)(b) was brought to the floor (**02 Board Review**). From 10:18 to 10:27, Sgt. Hyland can be seen guiding § 87(2)(b) to the ground by placing his right hand in front of § 87(2)(b)'s chest and holding § 87(2)(b)'s right forearm with his left hand. Sgt. Hyland is in front and slightly to the right of § 87(2)(b). Sgt. Hyland is not captured kneeling § 87(2)(b) in the back or pulling him backwards onto the floor.

Medical records from § 87(2)(b) Hospital show that § 87(2)(b) complained of lower back pain in the emergency department (**13 Board Review**). An examination after a CT scan revealed that § 87(2)(b) had severe degenerative disc disease in his back and a history of surgery to his lower spine.

§ 87(2)(b), § 87(2)(g)

Allegation (C) Abuse of Authority: Sergeant Robert Hyland refused to provide his name to

§ 87(2)(b)

Allegation (D) Abuse of Authority: Sergeant Robert Hyland refused to provide his shield number to § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Robert Pepe refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that after he was handcuffed, he requested Sgt. Hyland's name and shield number, but Sgt. Hyland did not answer him (**07 Board Review**). From afar, Sgt. Hyland eventually said, "Here!" and pointed to his shirt. § 87(2)(b) told Sgt. Hyland that he could not see and needed him to provide his name and shield number verbally. § 87(2)(b) never received Sgt. Hyland's name or shield number. Although § 87(2)(b) did not testify about asking PO Pepe for his information, **Allegation F** is being pled because video evidence captures misconduct.

Sgt. Hyland stated that § 87(2)(b) requested his shield number multiple times (**08 Board Review**). Sgt. Hyland's name and shield number were on the outermost garment of his uniform, and he believed that they were "clearly visible" to § 87(2)(b). Sgt. Hyland believed that § 87(2)(b)

§ 87(2)(b) “could have taken a mental note” of his name and shield number. Sgt. Hyland did not remember whether he verbally provided his name or his shield number to § 87(2)(b) Sgt. Hyland did not remember if § 87(2)(b) ever indicated whether he was able to see his name or shield number.

PO Pepe stated that § 87(2)(b) requested his name, and that he provided his name and shield number verbally (**09 Board Review**). PO Pepe did not remember whether § 87(2)(b) requested his name and shield number in writing. Neither PO Pepe nor Sgt. Hyland provided their names or shield numbers to § 87(2)(b) in writing.

PO Pepe's BWC captures these allegations beginning at 7:25 **(02 Board Review)**. § 87(2)(b) first requests Sgt. Hyland's name at 7:25. He does so again at 7:37, this time requesting both Sgt. Hyland's name and shield number. At 8:30, § 87(2)(b) asks PO Pepe for his shield number. PO Pepe says his shield number, and § 87(2)(b) says, "No, I want to write it down." PO Pepe tells § 87(2)(b) to relax. Then, in response to another quest at 9:50, Sgt. Hyland tells § 87(2)(b) "Everything's right here!" and points to his jacket. § 87(2)(b) responds, "It's not clear." At 11:45, after finally receiving Sgt. Hyland's shield number verbally, § 87(2)(b) says, "You need to give me a chance to write it down."

Both PO Pepe and Sgt. Hyland stated that their body-worn camera recordings captured the entirety of their interactions with § 87(2)(b). Neither officer's recordings capture Sgt. Hyland's name and shield number or PO Pepe's shield number being given to § 87(2)(b) in writing.

NYPD Patrol Guide Procedure 203-09 states that officers are to courteously and clearly state their names and shield numbers, or otherwise provide them, to anyone who requests that they do so (**16 Board Review**).

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- § 87(2)(g)

- § 87(2)(g)

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Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date
Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date